

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AMANDA NICOLE DOWNEY,
JESSE ROBERT SMITH, and SHAINA KEELY
SMITH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CLARENCE JAMES SMITH,

Respondent-Appellant,

and

DEBRA LYNN DOWNEY SMITH,

Respondent.

UNPUBLISHED

August 26, 2003

No. 245411

Wayne Circuit Court

Family Division

LC No. 01-395516

Before: Markey, P.J., and Cavanagh and Saad, JJ.

MEMORANDUM.

Respondent father Clarence Smith appeals as of right the order terminating his parental rights. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E). Respondent mother has not appealed.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341; 617 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that persuades the court that a ground for termination is established, termination of parental rights is mandatory unless the court finds that termination is clearly not in the child's best interests. *Id.*, 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.*, 356.

The petition alleged that respondent failed to rectify conditions leading to the adjudication and failed to provide proper care and custody. MCL 712A.19b(3)(c)(i) and (g). There is clear and convincing evidence to support the termination of respondent's parental rights. One of the principal conditions leading to the adjudication was the lack of suitable housing for the children. During the proceedings, respondent lived with his mother in inadequate housing.

At the permanent custody hearing, respondent claimed that he had just signed a lease for new housing, but he did not present the lease or any documentary evidence showing that the new housing was suitable. Respondent had the burden of presenting evidence that his situation had changed. *In re Miller*, 433 Mich 331, 345; 445 NW2d 161 (1989). The failure to obtain suitable housing supports the finding that respondent failed to provide proper care and custody and did not rectify the conditions that led to the adjudication. There is no evidence that termination is not in the best interests of the children.

Affirmed.

/s/ Jane E. Markey

/s/ Mark J. Cavanagh

/s/ Henry William Saad